

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

THOMAS H. KRAKAUER,  
on behalf of a class of persons,

Plaintiff,

v.

Civil Action No. 1:14-cv-00333-CCE-JEP

DISH NETWORK, L.L.C.,

Defendant.

**ORDER GOVERNING DISPOSITION  
OF UNDISBURSED CLASS FUNDS**

In accordance with its Order on Claims Procedures (Doc. 441), the Court, in the absence of agreement between the parties, must decide the disposition of Class funds remaining undisbursed at the conclusion of the claims process. Upon consideration of the briefs and arguments of the parties, the Court rules as follows.

1. There are five categories of Class member payments that will result in undistributed funds:

**Category 1** — Those Class members who submitted approved claims or are on the final list, *see* Doc. No. 560-1–560.3, but who do not timely deposit their checks. The precise sum of the funds comprising this category will not be known until the checks are issued and the stale date passed.

**Category 2** — Those Class members who submitted approved claims or are on the final list, *see id.*, but who fail to provide tax identification numbers to the claims administrator, and therefore receive a payment of \$595. *See* Doc. No. 560 at 5. Again, the sum of the funds comprising this category is unknown.

**Category 3** — Those Class members who did not submit claims and are not on the final list, but who are identified by name and address. There are 4,561 such persons who received 12,402 calls and are thereby entitled to \$10,082,701,98.

**Category 4** — Those Class members who did not submit claims and are not on the final list, and who are not identified by first name, last name, or address in the claims administrator's database. There are 200 such persons who received 516 calls, for which they would be entitled to \$419,502.84

**Category 5** — Those Class telephone numbers for whom claims were submitted, but were denied. There are 108 such persons who received 317 calls, accounting for \$257,717.83.

2. The Court has appointed Kurtzman Carson Consulting (“KCC”) to serve as Claims Administrator, authorizing it to hold and disburse the allocable proceeds of judgment, and to undertake all necessary steps incidental to its mission. *See* Doc. Nos. 523, 560. The Court therefore **ORDERS** that KCC be transferred the Category 3 Class

funds with respect to the 4,561 Class members who did not submit claims and are not on the final list, but who are identified by name and address, for retransfer to the proper authorities in the states and the District of Columbia in alignment with the last known address for each Class member.

3. Because KCC will not possess executed IRS Form W-9s for Category 3 Class members, the Court **ORDERS FURTHER** that the amounts paid to the unclaimed property funds for each be \$595, a sum not exceeding the threshold requiring completion of a Form W-9. The amount in excess of \$595 to which any Category 3 Class member would have been entitled had a claim been filed shall be distributed *cy pres*, as explained *infra*.

4. The Court **ORDERS FURTHER** that KCC shall submit invoices for this work according to the procedures and schedule outlined in the Court's October 18, 2019 Order regarding KCC's submission of expenses incurred. *See* Doc. 534. Within thirty days of the date of this Order, KCC shall submit an estimate of expenses regarding this phase of the administration. The Court anticipates paying these expenses from the common fund.

5. The Court **ORDERS FURTHER** that the unclaimed funds not distributed in accordance with the instructions *supra* pertaining to Category 3 Class members shall be distributed to one or more *cy pres* recipients to be selected by the Court.

6. By separate order, the Court will establish the process for determining the appropriate recipients of the *cy pres* funds.

**IT IS SO ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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UNITED STATES DISTRICT JUDGE